

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

CHAPTER 13 PLAN
AND RELATED MOTIONS

Name of Debtor(s): **Mark Tyler**
Sheila L. Tyler

Case No: **12-51651-SCS**

This plan, dated **November 30, 2012**, is:

- ☐ the *first* Chapter 13 plan filed in this case.
☒ a modified Plan, which replaces the
☐ confirmed or ☒ unconfirmed Plan dated October 29, 2012

Date and Time of Modified Plan Confirming Hearing: January 11, 2013 @ 09:30 AM

Place of Modified Plan Confirmation Hearing: US Courthouse, 2400 West Avenue, Newport News, VA 23607

The Plan provisions modified by this filing are: 2A2.

Creditors affected by this modification are: Unsecured creditors payout reduced by small amount.

NOTICE: YOUR RIGHTS WILL BE AFFECTED. You should read these papers carefully. If you oppose any provision of this Plan, or if you oppose any included motions to (i) value collateral, (ii) avoid liens, or (iii) assume or reject unexpired leases or executory contracts, you MUST file a timely written objection.

This Plan may be confirmed and become binding, and the included motions in paragraphs 3, 6, and 7 to value collateral, avoid liens, and assume or reject unexpired leases or executory contracts may be granted, without further notice or hearing unless a written objection is filed not later than seven (7) days prior to the date set for the confirmation hearing and the objecting party appears at the confirmation hearing.

The debtor(s)' schedules list assets and liabilities as follows:

Total Assets: **\$176,668.00**
Total Non-Priority Unsecured Debt: **\$34,762.00**
Total Priority Debt: **\$0.00**
Total Secured Debt: **\$133,800.00**

1. **Funding of Plan.** The debtor(s) propose to pay the trustee the sum of **\$370.00 Monthly for 36 months**. Other payments to the Trustee are as follows: NONE. The total amount to be paid into the plan is \$ 13,320.00.

2. **Priority Creditors.** The Trustee shall pay allowed priority claims in full unless the creditor agrees otherwise.

A. Administrative Claims under 11 U.S.C. § 1326.

1. The Trustee will be paid the percentage fee fixed under 28 U.S.C. § 586(e), not to exceed 10%, of all sums disbursed except for funds returned to the debtor(s).
2. Debtors' attorney will be paid \$ 3,200.00 which consists of \$2,900.00 balance due of a total fee of \$3,000.00 plus up to \$300.00 in expenses for copying, postage, telephone, and travel with the priority of payment as shown in Section 11 of the plan. Payment for expenses will not be paid until debtors' attorney submits to the Chapter 13 Trustee a detailed itemization of all such expenses, identified by type and month incurred.

B. Claims under 11 U.S.C. § 507.

The following priority creditors will be paid by deferred cash payments pro rata with other priority creditors or in monthly installments as below, except that allowed claims pursuant to 11 U.S.C. § 507(a)(1) will be paid prior to other priority creditors but concurrently with administrative claims above:

<u>Creditor</u>	<u>Type of Priority</u>	<u>Estimated Claim</u>	<u>Payment and Term</u>
-NONE-			

3. **Secured Creditors: Motions to Value Collateral ("Cramdown"), Collateral being Surrendered, Adequate Protection Payments, and Payment of certain Secured Claims.**

A. Motions to Value Collateral (other than claims protected from "cramdown" by 11 U.S.C. § 1322(b)(2) or by the final paragraph of 11 U.S.C. § 1325(a)). Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion to value collateral as set forth herein.

This section deals with valuation of certain claims secured by real and/or personal property, other than claims protected from "cramdown" by 11 U.S.C. § 1322(b)(2) [real estate which is debtor(s)' principal residence] or by the final paragraph of 11 U.S.C. § 1325(a) [motor vehicles purchased within 910 days or any other thing of value purchased within 1 year before filing bankruptcy], in which the replacement value is asserted to be less than the amount owing on the debt. **Such debts will be treated as secured claims only to the extent of the replacement value of the collateral. That value will be paid with interest as provided in sub-section D of this section. You must refer to section 3(D) below to determine the interest rate, monthly payment and estimated term of repayment of any "crammed down" loan. The deficiency balance owed on such a loan will be treated as an unsecured claim to be paid only to the extent provided in section 4 of the Plan.** The following secured claims are to be "crammed down" to the following values:

<u>Creditor</u>	<u>Collateral</u>	<u>Purchase Date</u>	<u>Est Debt Bal.</u>	<u>Replacement Value</u>
-NONE-				

B. Real or Personal Property to be Surrendered.

Upon confirmation of the Plan, or before, the debtor(s) will surrender his/her/their interest in the collateral securing the claims of the following creditors in satisfaction of the secured portion of such creditors' allowed claims. To the extent that the collateral does not satisfy the claim, any timely filed deficiency claim to which the creditor is entitled may be paid as a non-priority unsecured claim. Confirmation of the Plan shall terminate the automatic stay as to the interest of the debtor(s) and the estate in the collateral.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Estimated Value</u>	<u>Estimated Total Claim</u>
-NONE-			

C. Adequate Protection Payments.

The debtor(s) propose to make adequate protection payments required by 11 U.S.C. § 1326(a) or otherwise upon claims secured by personal property, until the commencement of payments provided for in sections 3(D) and/or 6(B) of the Plan, as follows:

<u>Creditor</u>	<u>Collateral Description</u>	<u>Adeq. Protection Monthly Payment</u>	<u>To Be Paid By</u>
-NONE-	Any adequate protection payment upon an unexpired lease of personal property assumed by the debtor(s) pursuant to section 6(B) of the Plan shall be made by the debtor(s) as required by 11 U.S.C. § 1326(a)(1)(B) (payments coming due after the order for relief).		

D. Payment of Secured Claims on Property Being Retained (except only those loans provided for in section 5 of the Plan):

This section deals with payment of debts secured by real and/or personal property [including short term obligations, judgments, tax liens and other secured debts]. After confirmation of the Plan, the Trustee will pay to the holder of each allowed secured claim, which will be either the balance owed on the indebtedness or, where applicable, the collateral's replacement value as specified in sub-section A of this section, **whichever is less**, with interest at the rate provided below, the monthly payment specified below until the amount of the secured claim has been paid in full. **Upon confirmation of the Plan, the valuation and interest rate shown below will be binding unless a timely written objection to confirmation is filed with and sustained by the Court.**

<u>Creditor</u>	<u>Collateral</u>	<u>Approx. Bal. of Debt or "Crammed Down" Value</u>	<u>Interest Rate</u>	<u>Monthly Paymt & Est. Term**</u>
-NONE-				

E. Other Debts.

Debts which are (i) mortgage loans secured by real estate which is the debtor(s)' primary residence, or (ii) other long term obligations, whether secured or unsecured, to be continued upon the existing contract terms with any existing default in payments to be cured pursuant to 11 U.S.C. § 1322(b)(5), are provided for in section 5 of the Plan.

4. Unsecured Claims.

A. Not separately classified. Allowed non-priority unsecured claims shall be paid pro rata from any distribution remaining after disbursement to allowed secured and priority claims. Estimated distribution is approximately 4 %. The dividend percentage may vary depending on actual claims filed. If this case were liquidated under Chapter 7, the debtor(s) estimate that unsecured creditors would receive a dividend of approximately 2.2 %.

B. Separately classified unsecured claims.

<u>Creditor</u>	<u>Basis for Classification</u>	<u>Treatment</u>
-NONE-		

5. Mortgage Loans Secured by Real Property Constituting the Debtor(s)' Primary Residence; Other Long Term Payment Obligations, whether secured or unsecured, to be continued upon existing contract terms; Curing of any existing default under 11 U.S.C. § 1322(b)(5).

A. Debtor(s) to make regular contract payments; arrears, if any, to be paid by Trustee. The creditors listed below will be paid by the debtor(s) pursuant to the contract without modification, except that arrearages, if any, will be paid by the Trustee either pro rata with other secured claims or on a fixed monthly basis as indicated below, without interest unless an interest rate is designated below for interest to be paid on the arrearage claim and such interest is provided for in the loan agreement.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Arrearage Interest Rate</u>	<u>Estimated Cure Period</u>	<u>Monthly Arrearage Payment</u>
Flagstar Bank	206 Walker Drive Williamsburg, VA	1,095.00	8,000.00	0%	See Section 11	Prorata

B. Trustee to make contract payments and cure arrears, if any. The Trustee shall pay the creditors listed below the regular contract monthly payments that come due during the period of this Plan, and pre-petition arrearages on such debts shall be cured by the Trustee either pro rata with other secured claims or with monthly payments as set forth below.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Interest Rate</u>	<u>Term for Arrearage</u>	<u>Monthly Arrearage Payment</u>
-NONE-						

C. Restructured Mortgage Loans to be paid fully during term of Plan. Any mortgage loan against real estate constituting the debtor(s)' principal residence upon which the last scheduled contract payment is due before the final payment under the Plan is due shall be paid by the Trustee during the term of the Plan as permitted by 11 U.S.C. § 1322(c)(2) with interest at the rate specified below as follows:

<u>Creditor</u>	<u>Collateral</u>	<u>Interest Rate</u>	<u>Estimated Claim</u>	<u>Monthly Paymt& Est. Term**</u>
-NONE-				

6. Unexpired Leases and Executory Contracts. The debtor(s) move for assumption or rejection of the executory contracts and leases listed below.

A. Executory contracts and unexpired leases to be rejected. The debtor(s) reject the following executory contracts.

<u>Creditor</u>	<u>Type of Contract</u>
-NONE-	

B. Executory contracts and unexpired leases to be assumed. The debtor(s) assume the following executory contracts. The debtor agrees to abide by all terms of the agreement. The Trustee will pay the pre-petition arrearages, if any, through payments made pro rata with other priority claims or on a fixed monthly basis as indicated below.

<u>Creditor</u>	<u>Type of Contract</u>	<u>Arrearage</u>	<u>Monthly Payment for Arrears</u>	<u>Estimated Cure Period</u>
-NONE-				

7. Liens Which Debtor(s) Seek to Avoid.

- A. The debtor(s) move to avoid liens pursuant to 11 U.S.C. § 522(f).** The debtor(s) move to avoid the following judicial liens and non-possessory, non-purchase money liens that impair the debtor(s)' exemptions. **Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion and cancel the creditor's lien.** If an objection is filed, the Court will hear evidence and rule on the motion at the confirmation hearing.

<u>Creditor</u>	<u>Collateral</u>	<u>Exemption Amount</u>	<u>Value of Collateral</u>
-NONE-			

- B. Avoidance of security interests or liens on grounds other than 11 U.S.C. § 522(f).** The debtor(s) have filed or will file and serve separate pleadings to avoid the following liens or security interests. The creditor should review the notice or summons accompanying such pleadings as to the requirements for opposing such relief. The listing here is for information purposes only.

<u>Creditor</u>	<u>Type of Lien</u>	<u>Description of Collateral</u>	<u>Basis for Avoidance</u>
-NONE-			

8. Treatment and Payment of Claims.

- All creditors must timely file a proof of claim to receive payment from the Trustee.
- If a claim is scheduled as unsecured and the creditor files a claim alleging the claim is secured but does not timely object to confirmation of the Plan, the creditor may be treated as unsecured for purposes of distribution under the Plan. This paragraph does not limit the right of the creditor to enforce its lien, to the extent not avoided or provided for in this case, after the debtor(s) receive a discharge.
- If a claim is listed in the plan as secured and the creditor files a proof of claim alleging the claim is unsecured, the creditor will be treated as unsecured for purposes of distribution under the Plan.
- The Trustee may adjust the monthly disbursement amount as needed to pay an allowed secured claim in full.

- 9. Vesting of Property of the Estate.** Property of the estate shall revert in the debtor(s) upon confirmation of the Plan. Notwithstanding such vesting, the debtor(s) may not sell, refinance, encumber real property or enter into a mortgage loan modification without approval of the Court after notice to the Trustee, any creditor who has filed a request for notice and other creditors to the extent required by the Local Rules of this Court.

- 10. Incurrence of indebtedness.** The debtor(s) shall not voluntarily incur additional indebtedness exceeding the cumulative total of \$5,000 principal amount during the term of this Plan, either unsecured or secured against personal property, except upon approval of the Court after notice to the Trustee, any creditor who has filed a request for notice, and other creditors to the extent required by the Local Rules of this Court.

11. Other provisions of this plan:

ORDER OF PAYMENT: Except for the payments to the Chapter 13 Trustee, disbursements by the Trustee shall be paid in the following order.

1. After the Chapter 13 plan has been confirmed, debtors' attorney fees and expenses until they have been paid in full.
2. Mortgage arrearage (pro-rata) until paid in full.
3. Priority claims (if any) (pro-rata) until paid in full.
4. General Unsecured claims (pro-rata).

The co-debtor, Brandon Brown, on the Toyota Financial Services debt will continue to make the regular monthly payments to Toyota Financial Services.

All post-petition claims allowed under 11 USC §1305 will be paid in full through the Chapter 13 Trustee as authorized by 11 USC §1322(b)(6).

SECURED CREDITORS WHO ARE BEING PAID DIRECTLY BY DEBTOR(S) POST-PETITION SHALL CONTINUE TO SEND REGULAR STATEMENTS AND CORRESPONDENCE DIRECTLY TO DEBTOR(S).

Signatures:

Dated: November 29, 2012

/s/ Mark Tyler
Mark Tyler
Debtor

/s/ John W. Raymond
John W. Raymond 28666
Debtor's Attorney

/s/ Sheila L. Tyler
Sheila L. Tyler
Joint Debtor

Exhibits: **Copy of Debtor(s)' Budget (Schedules I and J);**
Matrix of Parties Served with Plan

Certificate of Service

I certify that on November 30, 2012, I mailed a copy of the foregoing to the creditors and parties in interest on the attached Service List.

/s/ John W. Raymond
John W. Raymond 28666
Signature

Post Office Box 522
Norge, VA 23127
Address

(757) 565-0423
Telephone No.

Ver. 09/17/09 [effective 12/01/09]

B6I (Official Form 6I) (12/07)

In re **Mark Tyler**
Sheila L. Tyler

Case No. **12-51651-SCS**

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S): None.	AGE(S):
Employment:	DEBTOR	SPOUSE
Occupation	Driver	Sales Associate
Name of Employer	Newport News Industrial	Target
How long employed	2 weeks	14 years
Address of Employer	Newport News, VA	4630 Monticello Ave Williamsburg, VA 23188

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ 2,425.00	\$ 2,300.00
\$ 0.00	\$ 0.00

3. SUBTOTAL

\$ 2,425.00	\$ 2,300.00
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4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
b. Insurance
c. Union dues
d. Other (Specify): **401K**

\$ 290.00	\$ 700.00
\$ 0.00	\$ 80.00
\$ 0.00	\$ 0.00
\$ 120.00	\$ 0.00
\$ 0.00	\$ 0.00

5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ 410.00	\$ 780.00
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6. TOTAL NET MONTHLY TAKE HOME PAY

\$ 2,015.00	\$ 1,520.00
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7. Regular income from operation of business or profession or farm (Attach detailed statement)

\$ 0.00	\$ 0.00
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8. Income from real property

\$ 0.00	\$ 0.00
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9. Interest and dividends

\$ 0.00	\$ 0.00
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10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

\$ 0.00	\$ 0.00
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11. Social security or government assistance

(Specify):

\$ 0.00	\$ 0.00
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12. Pension or retirement income

\$ 0.00	\$ 0.00
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13. Other monthly income

(Specify):

Pro-Rata Tax Refund
Second Job

\$ 25.00	\$ 25.00
\$ 0.00	\$ 160.00

14. SUBTOTAL OF LINES 7 THROUGH 13

\$ 25.00	\$ 185.00
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15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ 2,040.00	\$ 1,705.00
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16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ 3,745.00

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

B6J (Official Form 6J) (12/07)

In re **Mark Tyler**
Sheila L. Tyler

Case No. **12-51651-SCS**

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$	1,095.00
a. Are real estate taxes included?	Yes <u>X</u> No <u> </u>	
b. Is property insurance included?	Yes <u>X</u> No <u> </u>	
2. Utilities:		
a. Electricity and heating fuel	\$	294.00
b. Water and sewer	\$	97.00
c. Telephone	\$	160.00
d. Other Cable, Garbage, Internet	\$	140.00
3. Home maintenance (repairs and upkeep)	\$	150.00
4. Food	\$	600.00
5. Clothing	\$	50.00
6. Laundry and dry cleaning	\$	30.00
7. Medical and dental expenses	\$	0.00
8. Transportation (not including car payments)	\$	350.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	100.00
10. Charitable contributions	\$	0.00
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	0.00
b. Life	\$	0.00
c. Health	\$	0.00
d. Auto	\$	204.00
e. Other	\$	0.00
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify) personal property	\$	15.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	0.00
b. Other	\$	0.00
c. Other	\$	0.00
14. Alimony, maintenance, and support paid to others	\$	0.00
15. Payments for support of additional dependents not living at your home	\$	0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	0.00
17. Other Miscellaneous Contingencies	\$	90.00
Other	\$	0.00
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	\$	3,375.00
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:		
20. STATEMENT OF MONTHLY NET INCOME		
a. Average monthly income from Line 15 of Schedule I	\$	3,745.00
b. Average monthly expenses from Line 18 above	\$	3,375.00
c. Monthly net income (a. minus b.)	\$	370.00

Advanced Cardiovascular Inst.
56215 Monticello Ave.
Suite A
Williamsburg, VA 23188

American Credit Co.
P. O. Box 6354
Annapolis, MD 21401

Bank Of America
P.O. Box 982235
El Paso, TX 79998

Bayport Credit Union
3711 Huntington Ave
Newport News, VA 23607

Black Expressions
P.O. Box 916400
Rantoul, IL 61866-6400

BMG Music Service
Customer Service Center
P.O. Box 91160
Indianapolis, IN 46291-0160

Brandon Brown
206 Walker Drive
Williamsburg, VA 23188

Columbia House
P.O. Box 91602
Indianapolis, IN 46291-0602

Credit Control Corp
11821 Rock Landing Dr
Newport News, VA 23606

Direct Brands Inc
One Penn Plaza
250 West 34th Street
New York, NY 10119

Dominion Law Associates
222 Central Park Ave
Suite 210
Virginia Beach, VA 23462-3026

Doubleday Book Club
P.O. Box 916400
Rantoul, IL 61866-6400

Equidata
P.O. Box 6610
Newport News, VA 23606-0610

Fingerhut
Direct Marketing Inc.
6250 Ridgewood Road
Saint Cloud, MN 56303

Flagstar Bank
Attn: Bankruptcy Dept
5151 Corporate Dr
Troy, MI 48098

Hudson Law Office
324 S. Main Street
Emporia, VA 23847

Jefferson Capital
16 McIeland Road
Saint Cloud, MN 56303

Labcorp
850 N. Greenbrier Circle
Chesapeake, VA 23320

Mark and Sheila Tyler
206 Walker Drive
Williamsburg, VA 23188

Med Express
120 Monticello Ave.
Williamsburg, VA 23185

Merchants & Medical
6324 Taylor Dr
Flint, MI 48507-4685

Michael P. Cotter, Esquire
Chapter 13 Trustee
(ECF)

Midnight Velvet
Swiss Colony Midnight Velvet
1112 7th Ave
Monroe, WI 53566

Peninsula Radiological Assoc.
P.O. Box 12087
Newport News, VA 23612-2087

Penn Credit Corp.
P.O. Box 988
916 South 14th Street
Harrisburg, PA 17108

Penn Foster College
14300 North Northsight Blvd
Scottsdale, AZ 85260

Reach for Performance, Inc.
312 J Lightfoot Road
Williamsburg, VA 23188

Revenue Cycle
2651 Warrenville R
Downers Grove, IL 60515

Riverside Regional
P.O. Box 120568
Newport News, VA 23612

Rjm Acq Llc
575 Underhill Blvd.
Suite 224
Syosset, NY 11791

Sentara
100 Sentara Circle
Williamsburg, VA 23188

Sentara Health Care
P.O. Box 791168
Baltimore, MD 21279-1168

Sentara Medical Group
400 Sentara Circle, Suite 450
Williamsburg, VA 23188

Sentara Norfolk General Lab
P.O. Box 1875
Norfolk, VA 23501

Toyota Motor Credit Co
Toyota Financial Services
P.O. Box 8026
Cedar Rapids, IA 52408

Trident Asset Management
5755 Northpoint Pkwy Ste
Alpharetta, GA 30022

Us Dept Of Education
Attn: Borrowers Service Dept
P.O. Box 5609
Greenville, TX 75403

US Dept of Education
Direct Loan Servicing Center
P.O. Box 530260
Atlanta, GA 30353-0260

VA Anesthesia & Perioperative
P.O. Box 79434
Baltimore, MD 21279-0434